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09/714,739	11/16/2000	Thomas D. Paasche	9974/56 (BH2090.P2)	5204

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EXAMINER

ZURITA, JAMES H

ART UNIT                      PAPER NUMBER

3625

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

<b>Application No.</b> 09/714,739	<b>Applicant(s)</b> PAASCHE ET AL.	
<b>Examiner</b> James H. Zurita	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 31 March 2006.
- 2a)  This action is **FINAL**.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 157-160, 162-176 and 178-199 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 157-160, 162-176, 178-199 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a)  All    b)  Some \*    c)  None of:
- Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Prosecution History***

On 16 November 2000, applicant filed the instant application. The application is a continuation of 09/515860, filed 29 February 2000, issued 27 December 2005 as US 6,980,962. The instant application claims priority to provisional Application 60122385, filed 2 March 1999 and from Provisional Application 60126493, filed 25 March 1999.

On 16 November 2000, in a preliminary amendment, applicant cancelled claims 1-156 and added claims 157-195.

On 4 December 2002, the Examiner issued a non-final rejection of claims 157-196 as unpatentable over Shell (US 6,415,265) in view of AMWAY® Products Delivered On Your schedule, Customer Order Worksheet, published 24 June 1998.

On 7 March 2003, applicant amended claims 165, 170, 183, 188, 189 and 195. Applicant cancelled claims 169 and 187 and added claims 197-199.

On 4 June 2003, the Examiner issued a final rejection of claims 157-168, 170-186, 188-199 as unpatentable over Shell in view of AMWAY®, as above.

On 2 September 2003, applicant requested consideration.

On 29 October 2003, the Examiner issued an advisory action.

On 7 January 2004, applicant requested continued examination.

On 31 March 2004, the Examiner rejected claims 157-168, 170-186, 188-199 as unpatentable over Edelson (US 5,737,539) in view of AMWAY®, above.

On 24 August 2004, applicant amended claim 157, 192, 194.

On 1 June 2005, applicant requested continued examination.

On 21 December 2005, the Examiner rejected claims 157-168, 170-186 and 188-199 as unpatentable over Edelson in view of AMWAY®, as above.

On 21 March 2006, applicant filed a response.

### ***Response to Amendment***

On 21 March 2006, applicant amended claims 157, 162, 165-169, 174, 178, 183-187, 192, 195 and 197. Claims 161, 167, 177 and 187 are cancelled.

Claims 157-160, 162-176, 178-199 are pending and will be examined. Claims 157, 174, 192, 195 and 197 are independent.

### ***Response to Arguments***

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

At the onset, in response to applicant's arguments against Edelson individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

On page 9, lines 15-18, Applicant argues,

EDELSON et al. fails to disclose or suggest shipping a first order to a registered user who places an order, causing a first order to be shipped to a registered user who places an

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order, repetitively sending a product to a user in response to receiving a first order from the user, or sending products at regular intervals to a user who places an order.

On page 10, line 30-page 11, line 3, Applicant similarly argues,

Finally, the **EDELSON** dispenser is not disclosed as allowing a patient to order the drugs for themselves, i.e. the patient is not the prescriber, and thus **fails** to teach or **suggest** a system that ships an order to a user who places that order. Further, one of ordinary skill in the art would not be motivated to alter the **EDELSON** dispenser to facilitate self-prescribing as this is contrary to the general ethical guidelines of the medical profession, e.g. physician may not have a doctor-patient relationship with himself.

In response to these arguments, the Examiner notes that claims directed to shipping have the following limitations, emphasis added:

[Claim 174] ...**initiate shipment** ...to said registered user according to said first profile...

[claim 195] ...**causing the shipment** of the product or service to the user [Ex. Note: there is no mention of a registered user in this claim] two or more times in accordance with the standing order.

On page 9, lines 18-23 and page 11, lines 3-6, Applicant argues,

Rather, a doctor or other health care provider in the system of EDELSON creates a prescription for use by a patient. EDELSON fails to disclose that the patient can order a prescription, i.e. prescribe a prescription medication, for themselves and further, this would be contrary to the understanding of those skilled in the art as well as contrary to the ethics of the medical profession...

Further, one of ordinary skill in the art would not be motivated to alter the **EDELSON** dispenser to facilitate self-prescribing as this is contrary to the general ethical guidelines of the medical profession, e.g. physician may not have a doctor-patient relationship with himself.

At the onset, applicant fails to support his assertions concerning "...general ethical guidelines of the medical profession..." which are not in claims nor disclosures.

Edelson is not limited to prescription medications prescribed by physicians, as applicant appears to believe. The Examiner notes that system users may include physicians, but is not so limited, as in Col. 2, lines 54-60, for example. For references to non-prescription products, please see at least Fig. 8 and references to Children's Advil ad Children's Motrin.

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On page 9, line 24-page 10, line 4, applicant argues:

EDELSON et al. also fails to disclose or suggest automatically repeating an order, an order that automatically recurs, a standing order or sending products and/or services to the user at regular intervals. The Examiner points to a prescription quantification procedure of EDELSON et al. as evidence that the EDELSON et al. system causes an order to recur automatically. However, the prescription quantification procedure of EDELSON et al. provides a mechanism for, "The Form, Size, Route and Amounts headers 92-98 [to be] linked to the drug selected and bring system resources to bear to enable a prescriber rapidly to quantify the prescription with appropriate dosages that can be filled at a pharmacy, without undue difficulty." (col. 25, lines 36-40). Thus, EDELSON et al merely discloses a system that allows a prescriber to easily specify the quantity of a single prescription, to be fulfilled once at a pharmacy.

In response to these arguments, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

On page 10, lines 26-30, applicant argues:

Further, *EDELSON* notes that the drug dosage dispenser "can be provided for inpatient use in medical or health care facilities." It is important, in the context of the *EDELSON* drug dispenser, that control of the device, and the drugs contained therein, be maintained at a secure location. As a result, the dispenser is limited to use at inpatient medical or health care facilities. [Ex. Note: appears to be a reference to col. 30, lines 30-43]

Applicant is respectfully directed to col. 29, lines 36-63, for example, that discloses use at home or during travels.

### ***Claim Rejections - 35 USC § 112***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 199 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

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skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The disclosures mention multiple standing orders but do not describe how they are created and handled.

### ***Claim Rejections – Prior Art***

The following information is provided for applicant's convenience:

<b>claims</b>	<b>rejection</b>	<b>Prior Art</b>
192-197 and 199	35 USC 102(a)	Lettuce
198	35 USC 103(a)	Lettuce
157-191	35 USC 103(a)	Amway in view of Kiplinger
157-159, 162-170, 173-176, 179, 181-186, 188	35 USC 103(a)	Edelson in view of Lettuce
160, 171-172, 178, 180, 189-190	35 USC 103(a)	Edelson in view of Lettuce and further in view of Amway
161, 167, 177, 187	cancelled	

### ***Claim Rejections - 35 USC § 102***

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

**Claims 192-197 and 199** are rejected under 35 U.S.C. 102(a) as being anticipated by an article by an anonymous author, ***Lettuce by modem***, published on **12 January 1998**, downloaded from the Internet on 1 August 2006, 1 page, from [www.forbes.com/forbes/1998/0112/6101160s1.html](http://www.forbes.com/forbes/1998/0112/6101160s1.html).

**As per claim 192, *Lettuce*** discloses Method(s) for facilitating electronic commerce through a network, the method comprising:

- (a) receiving, by at least one server computer coupled with the network, a first order via the network from a user via a browser system located at a remote client computer (see, for example, references to ordering groceries, as in paragraph 1);
- (b) establishing an automated order in response to the receiving (see, for example, at least paragraph 5, keeping a standing order); and
- (c) repetitively sending a product or providing a service to the user in response to (b), see, for example, delivery at a person's driveway, as in paragraph 1.

**As per claim 193, *Lettuce*** discloses (b) comprises creating a standing order profile (keeping a standing order record, as in keeping record of "...families that routinely order the same stuff...").

**As per claim 194, *Lettuce*** discloses that the first order comprises an order for one or more of a plurality of products or services corresponding to web files. See, for example, references to good lists, and pack and deliver, as in paragraph 4.

**As per claim 195, *Lettuce*** discloses method(s) for facilitating electronic ordering of a product or service in response to a user selection through a network, said network comprising at least one server computer capable of communicating with a browser system located at a remote client computer, an improvement comprising:

establishing a standing order in response to the selection of the product or service by a user (see, for example, at least references to "...additions and deletions are just a mouse-click or two away" paragraph 5.



causing the shipment of the product or service to the user two or more times in accordance with the standing order. See references to "...standing order that's automatically filled each week." Paragraph 5.

a standing order link is provided in response to the selection of the product or service and the standing order is established in response to selection of the standing order link. See additions and deletions in a standing order, paragraph 5.

**As per claim 196 *Lettuce*** discloses that a standing order link is provided in response to the selection of the product or service and the standing order is established in response to selection of the standing order link. See references to additions and food lists, at a mouse-click away, via a browser system located at a remote client computer, as in paragraph 5.

**As per claim 197, *Lettuce*** discloses method(s) for facilitating electronic commerce in an electronic commerce system through a network, said network comprising at least one server computer capable of communication with a browser system located at a remote client computer, said method comprising:

(a) receiving a standing order process selection from a user (see , for example, at least paragraph 5);

(b)\_\_\_providing standing order profile information (see, for example, references to registering and providing information about themselves, paragraph 1, the van delivers groceries to a user's driveway, i.e., information provided by a user).

(c) establishing long-term orders of the products and/or services as a function of the regular intervals. See at lest paragraph 5, standing filled each week.

**As per claim 199, *Lettuce*** discloses comprising repeating (a), (b) and (c) for multiple standing orders associated with a same user. See references to additional stores such as PeaPod, and half-dozen other outfits like it, as in paragraph 3.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claim 198 is rejected under 35 U.S.C. 103(a) as unpatentable over *Lettuce*.**

***Lettuce does not*** specifically refer to a shopping basket. Official Notice is taken that the use of shopping baskets is notoriously well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine ***Lettuce*** and knowledge of one of ordinary skill in the art to disclose

- (d) providing a shopping basket page with a link to the standing order process selection, wherein (a) occurs in response to selection of the link; and
- (e) placing any items in the shopping basket page in the standing order profile information prior to (b); and
- (f) receiving removal information, if any, for removing one or more of the items from the standing order profile.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine ***Lettuce*** and knowledge of one of ordinary skill in the art to disclose

- (d) providing a shopping basket page with a link to the standing order process selection, wherein (a) occurs in response to selection of the link; and
- (e) placing any items in the shopping basket page in the standing order profile information prior to (b); and
- (f) receiving removal information, if any, for removing one or more of the items from the standing order profile.

for the obvious reason that by using items in a shopping basket, a user does not have to remember specific product identification in order to add or delete items from a standing order.

**Claims 157-191** are rejected under 35 U.S.C. 103(a) as being unpatentable over Amway in view of an article by an anonymous author, **Family values, Kiplinger's Personal Finance Magazine**. Washington: Feb 1998.Vol.52, Iss. 2; pg. 54, 2 pgs, downloaded from ProQuest on the Internet on 1 August 2006.

Amway discloses placing a standing order in a multi-level marketing system that provides for different types of users and different compensation schemes as claimed. Amway **does not** disclose placing standing orders on the Web.

Kiplinger discloses placing standing orders on the Web, as on page 2, first paragraph. A standing order is an order for repeated shipments of goods to be sent without specific reorders; standing orders must comply with certain quantity and time limitations. BARRONS Dictionary of Business Terms.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Amway and Kiplinger to disclose a multi-level marketing system that provides different types of users and different compensation schemes on the Web. Of ordinary skill in the art at the time the invention was made would have been motivated to combine Amway and Kiplinger to disclose a multi-level marketing system that provides different types of users and different compensation schemes on the Web for the obvious reason that grocery shopping and selecting items is easy.

**Alternatively, Claims 157-159 162-170, 173-174, 176 and 184** are rejected under 35 U.S.C. 103(a) as being unpatentable over Edelson in view of **Lettuce**, above.

**As per method claim 157**, Edelson discloses methods for facilitating electronic commerce through a network. The network includes at least one server capable of communicating with remote client computers. The remote client computers have different screens that may be used to place recurring orders in medications and drugs. See, for example, entry screens, Fig. 1 and related text. See also prescription creation screen, Fig. 3 and related text. Edelson discloses:

registering a user with an electronic commerce system (see, for example, at least Col. 53, lines 6-14)

**receiving a first order by an said electronic commerce system via a network, said network comprising at least one server computer capable of communicating with a browser system located at a remote client computer, the first order being received from said registered user via said browser system, the first order comprising a request to purchase, and have provided to the registered user, one or more of a plurality of electronic commerce system products or services corresponding to web files stored on said server.** See, for example, references to prescriptions (applicant's orders), service or parts orders, Col. 1, lines 1-15, Col. 3, lines 66-Col. 4, line 15, Col. 8, lines 20-62.

**generating a first profile, said first profile comprising the first order and specifying a recurrence for the first order.** See at least references to prescription

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profiles, for example, Col. 9 line 65-Col. 10, line 38, and individual and user profile, as in Col. 9, line 66-Col. 10, line 38).

providing said one or more of said plurality of electronic commerce system products or services to said registered user according to said first profile (see, for example, at least Fig. 15 and related text, concerning chipping schedules); and

**causing the first order** to automatically recur one or more times according to the specification. See, for example, references to prescription quantification and to number of times refilling is permitted, Col. 25, line 35-Col. 26, line 54.

Edelson discloses a **browser** located at a remote client computer. See, for example, at least Fig. 12 and related text concerning browsing files, Col. 40, lines 46-67, and discloses the use of files at a site, as in Col. 14, line 61-Col. 15, line 6. Edelson discloses that his network can reach nationally, internationally across the **Internet** to multiple clients. See, for example, Col. 47, lines 1-20. See also Fig. 16 and related text. See also at least references to user-device clients (for example Col. 7, lines 16-32), multiple intelligent clients, at least Col. 45, lines 15-30.

Edelson **does not** specifically disclose that the products correspond to **web** files.

**Lettuce** discloses placing standing orders on the Web, as on paragraph 5. See also definition of standing order, above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Edelson and Lettuce to disclose placing standing orders on the web and with web files. **One of** ordinary skill in the art at the time the invention was made would have been motivated to combine Edelson and Lettuce to disclose placing standing orders on the web and with web files

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for the obvious reason that selecting items on the Web and setting up standing orders facilitates replenishing staples on a regular basis.

***As per claim 158, Edelson*** discloses use of the Internet. As to web sites and web files, this claim is rejected on the same grounds as claim 157.

***As per claim 159, Edelson*** discloses a marketing system. See, for example, at least Col. 24, lines 19-59.

***As per claim 162, Edelson*** discloses receiving an order from a registered user. See, for example, references to prescriptions (applicant's orders), service or parts orders, Col. 1, lines 1-15, Col. 3, lines 66-Col. 4, line 15, Col. 8, lines 20-62.

***As per claim 163, Edelson*** discloses first profile further specifies a first recurrence interval upon elapse of which said first order is to recur. See, for examples, references to prescribed intervals, at least in Col. 27, lines 9-28, line 20.

***As per claim 164, Edelson*** discloses first profile further specifies the regularity of said first recurrence interval. See, for examples, references to prescribed intervals, at least in Col. 27, lines 9-28, line 20.

***As per claim 165, Edelson*** discloses Generate multiple standing orders, the multiple standing orders including the first standing order. See, for examples, references to prescribed intervals and multiple simultaneous prescriptions, at least in Col. 27, lines 9-28, line 20.

***As per claim 166, Edelson*** discloses allowing a user to modify a first profile. Col. 14, lines 44-60.

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**As per claims 167 and 168**, *Edelson discloses* allow said user to add [or remove one or more of said plurality of electronic commerce system products or services to said first order. See, for example, at least Col. 18, line 54-Col. 23, line 25.

**As per claim 169**, *Edelson discloses allowing a user to modify the recurrence*. See, for example, at least Col. 25, line 35-Col. 26, line 54.

**As per claim 170**, *Edelson does not specifically disclose the use of a shopping cart*. *Edelson discloses the use of the Internet*. Official Notice is taken that shopping carts are notoriously well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add shopping carts to a web site on the Internet. One of ordinary skill in the art at the time the invention was made would have been motivated to add shopping carts to a web site on the Internet for the obvious reason that a user may be reminded what he has ordered so far.

**As per claim 173**, *Edelson discloses allowing a user to modify the recurrence*. See, for example, at least Col. 25, line 35-Col. 26, line 54.

Independent Claim 174 is rejected on the same grounds as claim 157. The Examiner again notes that applicant requires a system that is **capable of** performing certain functions. The Examiner notes that *Edelson is capable of performing functions claimed in applicant's most recent amendment*.

**As per claim 175**, *Edelson does not specifically disclose a mainframe computer*. However, the specific type of computer does not patentably distinguish the claimed system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide any type of computer, including

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mainframe computers. One of ordinary skill in the art at the time the invention was made would have been motivated to provide any type of computer, including mainframe computers for the obvious reason that mainframes are often used to store data and a firm may wish to take advantages of legacy systems.

**As per claim 176, Edelson** discloses use of the Internet. As to web sites and web files, this claim is rejected on the same grounds as claim 157.

**As per claim 184, Edelson discloses** allow a user to modify said first profile. See, for example, at least Col. 18, line 54-Col. 23, line 25.

**Claims 160, 162, 171, 172, 178, 180, 189 and 190** are rejected under 35 U.S.C. 103(a) as being unpatentable over Edelson in view of Lettuce and further in view of Amway.

**As per claims 160, 162, 171, 172, 178, 180, 189 and 190 Edelson does not** specifically disclose

- a multi-level marketing system, (claims 160 and 180)
- Register a user with said electronic commerce system as a member or IBO (claims 162, 178)
- first order for products or services may be specified in eaches or bulk (claims 171 and 189)
- first order for products or services may be specified in eaches or cases (claims 172 and 190)

**Amway** discloses that orders in an MLM system may be recurring or standing orders. Amway also discloses the use of specifics such as start date and end dates of an order and quantities in terms of eaches, cases, unit quantities, lot quantities and bulk shipments. Amway also discloses that orders and products in standing orders may be defined with time intervals upon elapse of which an order is to recur. Multilevel Marketing is

... a system of retailing in which consumer products are sold by independent businessmen and women (distributors) usually in customers' home. Distributors are also



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encouraged to build and manage a sales force by recruiting, motivating, supplying and training others to sell the products or service. Distributors compensation is then based on the sales of the entire sales force in addition to personal sales.<sup>1</sup>

By definition, MLM systems such as disclosed by Amway may be directed to distributors in multiple levels. As applicant admits,

... it is important to provide different incentives according to roles. One particular group might prefer to get commissions as a reward. Others might prefer not to show commissions as part of their income and might prefer to receive coupons or other types of discounts on merchandise. Further, the names used to distinguish among different classes of participants are often limited only by the collective imagination of a firm's marketing department. Thus one participant may readily recognize his compensation by using an illustrative term (e.g., happy member compensation, or health-conscious role model participant, etc.) where the same participant may be less comfortable with a term such as level-x, or level-y compensation/commission. (see admissions, below)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Edelson and Amway to disclose

- a multi-level marketing system, (claims 160 and 180)
- Register a user with said electronic commerce system as a member or IBO (claims 162, 178)
- first order for products or services may be specified in eaches or bulk (claims 171 and 189)
- first order for products or services may be specified in eaches or cases (claims 172 and 190)

for the obvious reason that this type of marketing permits multiple parties to enjoy income and benefits of selling products.

Claim 168 is rejected on the same grounds as claim 167.

Claim 179 is rejected on the same grounds as claim 159.

Claim 181 is rejected on the same grounds as claim 163.

Claim 182 is rejected on the same grounds as claim 164.

Claim 183 is rejected on the same grounds as claim 165.

Claim 185 is rejected on the same grounds as claim 167.

Claim 186 is rejected on the same grounds as claim 167.

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<sup>1</sup> Definition of MultiLevel Marketing, Barron's Dictionary of Business Terms.

Claim 188 is rejected on the same grounds as claim 184.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**James Zurita**  
**Primary Examiner**  
**Art Unit 3625**  
2 August 2006

*James Zurita*  
*Primary Examiner*